



energy

Department:  
Energy  
REPUBLIC OF SOUTH AFRICA



## MEDIA STATEMENT BY THE MINISTER OF ENERGY

13 MAY 2017

On 26 April 2017, two Judges of the Western Cape High Court hearing an Application by Earthlife Africa and Another versus the Minister of Energy and five (5) Others, handed down Judgment in the following terms: -

1. The Section 34 Determination of 2013, is unlawful and unconstitutional and is reviewed and set aside;
2. The Section 34 Determination of 2016 is unlawful and unconstitutional and is reviewed and set aside.
3. Any Request for Proposal or Request for Information issued pursuant to the 2013 or 2016 Determinations are set aside.
4. The Minister's decision to table the Russian Intergovernmental Agreement in terms of section 231(3) of the Constitution is unconstitutional and unlawful and is reviewed and set aside;
5. The Minister's decisions to table the US and South Korea Intergovernmental Agreements in terms of section 231(3) of the Constitution is unlawful and unconstitutional and are reviewed and set aside;
6. Costs were ordered against the Minister, and those cost occasioned by the First Respondent as a result of the late disclosure of the 2013 Determinations are on a more punitive attorney and client scale.

I have, prior to the issuing of this communication, consulted with the officials within the Department as well as the legal representatives that were dealing with this matter. Major concerns were raised with regards to the Judgment and its implication to the department, in relation to the agreements that affects our counterparts and Section 34 determinations.

**Energy mix:** Government and the Department remains committed to the currently approved energy mix policy and will continue to strive to implement all forms of energy sources to secure the supply and availability of energy in the country. We



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appeal to our stakeholders to stop the temptation to divide the sector between Nuclear and Renewables.

**I have decided that I WILL NOT BE APPEALING the decision of the Western Cape High Court on this matter.**

Following this decision I have issued the following instruction to the department:

- a) **Section 34 Determinations:** Amongst reparative measures agreed to as the Department, is the review of the processing of all future section 34 determinations and review all determinations currently in place to ensure compliance with this judgment.
- b) **Intergovernmental Agreements:** In accepting the ruling of the court, and ensuring that no impropriety is suggested in the future, the Department seek to apply standardization in both form and processing (relating to proper tabling before parliament and its committees), of all Intergovernmental Agreements to be concluded with international countries. It is important to note that there is no intention to table the current agreements but will embark to sign new agreements with all the five countries and table them within reasonable time to parliament for consideration.

**End**

*Issued by the Department of Energy*

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